



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 13 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Armand Agasian
Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, NY 10003

Dear Mr. Agasian,

This letter responds to your correspondence of April 29, 1998, in which you ask about the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, your question concerns the Standard Industrial Classification (SIC) code criterion for EPCRA section 313.

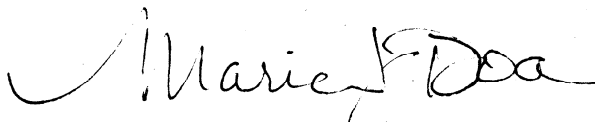
Your question concerns two multi-establishment Con Edison facilities. The SIC codes applicable to the activities at these facilities are 4911 (Electric Services) and 4961 (Steam and Air-conditioning Supply). At each of these facilities, the value of the steam supply is expected to account for over 90 percent of the total value of the products shipped and produced at these facilities during the 1998 reporting year. You are seeking verification that these facilities do not meet the EPCRA section 313 SIC code criterion.

As you know, EPA recently added seven new industry sectors to those covered by the reporting requirements of EPCRA section 313 (May 1, 1997; 62 FR 23834). One of these newly added industry sectors is electric utilities (SIC codes 4911 limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce). As you stated in your letter, the Con Edison facilities in question are at least partially covered by this newly added SIC code. You have described the Con Edison sites as multi-establishment facilities and as such they must determine their primary SIC code to determine if they meet the EPCRA section 313 SIC code criterion. As outlined at 40 CFR § 372.22(b)(3)(i), a multi-establishment complex meets the EPCRA section 313 SIC code criterion if "[t]he sum of the value of services provided and/or products shipped and/or produced from those establishments that have primary SIC major group or industry codes in the above list is greater than 50 percent of the total value of all services provided and/or produced and/or shipped from and/or produced by all establishments at the facility." Because the value of the steam supply at each of the Con Edison facilities in question is expected to be greater than 50 percent of the products shipped and produced at these facilities, the primary SIC code of each of the facilities would be 4961. Facilities with primary SIC codes of 4961 are not currently covered by EPCRA section 313.

You should note, however, if your facility's activities change such that the primary SIC code is more accurately represented by SIC code 4911 or any of the other covered SIC codes, your facility may become newly subject to the EPCRA section 313 reporting requirements.

I hope this information is helpful to you in making threshold determinations for section 313 of EPCRA. If you have any other questions, or desire further information, please call either Sara Hisel McCoy at 202.260.7937 or me at 202.260.9592.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria J. Doa". The signature is fluid and cursive, with a large initial "M" and a stylized "D".

Maria J. Doa Ph.D., Chief
Toxics Release Inventory Branch

cc: IG system
Hotline
Regions